

NOTICE: NOT FOR PUBLICATION.  
UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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STATE OF ARIZONA, *Appellee*,

*v.*

PAUL C. HANSEN-MITEV, *Appellant*.

No. 1 CA-CR 10-0443  
FILED 11-19-2013

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Appeal from the Superior Court in Maricopa County  
No. CR2008-130434-001 DT  
The Honorable Christopher T. Whitten, Judge

**AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Joseph T. Maziarz

*Counsel for Appellee*

Office of the Legal Advocate, Phoenix  
By Frances J. Gray

*Counsel for Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Andrew W. Gould delivered the decision of the Court, in which Judge Margaret H. Downie and Judge Patricia A. Orozco joined.

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**G O U L D**, Judge:

¶1 Paul Hansen-Mitev (“Defendant”) appeals from his conviction and sentence for child abuse, a class five felony; and resisting arrest, a class six felony. Defendant was sentenced on May 11, 2010 and filed a notice of appeal on May 28, 2010. Defendant’s counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this Court that after a search of the entire appellate record, no arguable ground exists for reversal. Defendant was granted leave to file a supplemental brief *in propria persona* on or before April 26, 2013, and did not do so.

¶2 Our obligation in this appeal is to review “the entire record for reversible error.” *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). Finding no reversible error, we affirm.

**Facts and Procedural History<sup>1</sup>**

¶3 On May 16, 2008, Defendant was scheduled to pick up his two-year old daughter (the “Child”) from her mother’s family at a police station. Tensions were high during the exchange, as there had been an intense custody battle over the Child prior to this exchange, and Defendant had not seen his Child for several months. When the Child’s grandfather handed her to Defendant, she began to reach back towards her grandfather. Then, as Defendant started carrying the Child to his car, she began crying. At that point, instead of placing the Child in the car, Defendant carried her into the lobby of the police station.

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<sup>1</sup> We view the evidence in the light most favorable to sustaining the convictions and resulting sentences. *See State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

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¶4 Eventually, Defendant sat down in the lobby of the police station holding the Child, who continued to cry. Police officers could hear the Child crying, but initially did not think much of it. However, the cries became louder and more intense, and eventually several officers went to the lobby to see what was going on. When they arrived in the lobby, the officers observed Defendant holding the Child in his lap in a bearhug. Defendant appeared agitated, and said to the officers: “This is what the Phoenix Police Department needs to see because they won’t do anything.” Defendant then began to squeeze the Child tighter; in response, she started to squirm and fight to get away.

¶5 At this point, an officer told Defendant to let go of the Child; in response, Defendant squeezed her even harder. After the officer again asked Defendant to let go of the Child, he eventually loosened his grip, and Child slid down between his legs. However, Defendant continued to appear agitated, and grabbed the Child around the neck with one arm while grabbing around the waist with the other arm. Soon it became apparent to the officers that the Child could not breathe due to the fact Defendant was holding her so tightly around her neck.

¶6 After seeing Child squeezed and her breathing cut off, two officers grabbed Defendant’s arms in an effort to make him let go of the Child. Even with the officers holding his arms, Defendant continued to squeeze the Child with his legs. At one point, Defendant was squeezing the Child so hard with his legs that it appeared Child was having trouble breathing. Finally, an officer was able to grab Child and pull her away from Defendant.

¶7 Officers commanded Defendant to place his hands behind his back, but he refused. Officers then removed Defendant from the chair, but he continued to resist their efforts to place him under arrest. As they brought Defendant to the ground, he was kicking, knocking around chairs in the lobby, and rolling his body on the ground. Eventually, Defendant calmed down, and the officers placed him under arrest.

¶8 Defendant was charged with Count One, Child Abuse (under circumstances likely to produce serious physical injury), a class four felony; and Count Two, Resisting Arrest, a class six felony.

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¶9 Defendant was present and was represented by counsel throughout all stages of the case. After waiving his right to a jury trial, Defendant was found guilty at a bench trial on all counts.<sup>2</sup>

¶10 As to Count One, the court sentenced Defendant to a probation term of approximately thirteen years, or until the Child reaches the age of 18,<sup>3</sup> and three years of probation for Count Two, both terms to be served concurrently.

**Discussion**

¶11 We have read and considered counsel's brief, carefully searched the entire record for reversible error and found none. *State v. Clark*, 196 Ariz. 530, 541, ¶ 49, 2 P.3d 89, 100 (App. 1999). All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and substantial evidence supported the finding of guilt. Defendant was represented by counsel at all critical stages of the proceedings. At sentencing, Defendant and his counsel were given an opportunity to speak and the court imposed a legal sentence.

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<sup>2</sup> As to Count One, both parties agree the trial court found Defendant guilty of a lesser-included offense, e.g., Child Abuse under circumstances other than those likely to produce death/serious physical injury. *See* Appellant's Brief pursuant to *Penson v. Ohio*, 488 U.S. 75, 109 (1988) filed October 31, 2013 and Appellee's Supplemental Answering Brief filed November 4, 2013.

<sup>3</sup> Arizona Revised Statute section 13-902(E) provides that a conviction for child abuse under A.R.S. §13-3623 carries with it a probation term of "up to and including life."

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¶12 Counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do nothing more than inform Defendant of the status of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuk*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Defendant shall have thirty days from the date of this decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.



Ruth A. Willingham · Clerk of the Court  
FILED: mjt